

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

YESSICA SOTO on behalf of)	
Y.E.H., a minor,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-10-454-C
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for judicial review of the Commissioner’s denial of supplemental security income benefits was referred for initial proceedings to United States Magistrate Judge Gary M. Purcell, consistent with 28 U.S.C. § 636(b)(1)(B). Judge Purcell entered a Report and Recommendation (“R&R”) on January 6, 2011, recommending that the decision of the Commissioner be affirmed. Plaintiff, through counsel, has timely filed an objection to this report, and the Court therefore considers the matter de novo.

In his thorough and well-reasoned R&R, Judge Purcell sets out the relevant facts and prevailing law, and no purpose would be served to repeat those here. Plaintiff’s only objection is that the Administrative Law Judge (“ALJ”) failed to discuss the evidence or provide reasons why a listing was not met. In his R&R, Judge Purcell found this to be harmless error. And indeed, all of the elements of a listing are discussed at length in the

ALJ's opinion. None of them support the finding of a listed impairment. The mere fact that he did not voice that conclusion at the end of his discussion of the evidence does not render his opinion without substantial evidence.

The Court agrees with the R&R that there is substantial evidence to support the ruling of the Commissioner and that no legal error was applied in the analysis.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons stated therein, the decision of the Commissioner in this case is affirmed. A judgment will enter.

IT IS SO ORDERED this 16th day of February, 2011.


ROBIN J. CAUTHRON
United States District Judge